

APPEAL NO. 031286
FILED JULY 2, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 14, 2003. The hearing officer decided that the appellant (claimant herein) did not suffer a compensable injury on _____, and consequently, did not have disability. The claimant files a request for review challenging the decision and the respondent (carrier herein) replies that the decision should be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

Commission records indicate that the hearing officer's decision was mailed to the claimant on April 22, 2003. Under Rule 102.5(d), unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision 5 days after it was mailed; in this case deemed receipt is April 27, 2003. The claimant states in her request for review that she actually received the decision of the hearing officer on April 26, 2003. The appeal needed to be mailed no later than May 16, 2003, the 15th day from the deemed date of receipt.¹ The claimant's appeal was received on May 22, 2003. The request for review is dated May 17, 2003; the postage meter stamp on the envelope transmitting the request for review is dated May 17, 2003; and the U. S. Postal Service date stamp on the envelope is May 19, 2003. Thus, the appeal is clearly untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision is final pursuant to Section 401.169.

¹ Which due to the fact that the actual date of receipt was a Saturday and the deemed date of receipt was a Sunday, means that May 16, 2003, was also the 15th day from the deemed date of receipt as well.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge